

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X :  
JOHN DAZA, :

Plaintiff, :

vs. :

**Index No.: 10Civ.4678 (MGC)(GWG)**

PILE FOUNDATION CONSTRUCTION COMPANY, :  
INC., ANTHONY RIVERA CONTRACTING, LLC, :  
URS CORPORATION, and URS CORPORATION- :  
NEW YORK, THE CITY OF NEW YORK, THE NEW :  
YORK CITY DEPARTMENT OF PARKS AND :  
RECREATION, THE NEW YORK CITY :  
DEPARTMENT OF PARKS AND RECREATION :  
CAPITAL PROJECTS DIVISION, THE NEW YORK :  
CITY ECONOMIC DEVELOPMENT :  
CORPORATION and the Barge "UNCLE LEO," its :  
equipment, tackle and appurtenances, *in rem*, :

**L. CIV. R. 56.1(a) STATEMENT  
OF MATERIAL UNDISPUTED  
FACTS IN SUPPORT OF URS'  
CROSS MOTION FOR SUMMARY  
JUDGMENT**

Defendants. :

-----X :

Pursuant to Fed. R. Civ. P. 56 and L. Civ. R. 56.1, URS Corporation and URS Corporation – New York hereinafter collectively referred to as ("URS") respectfully submit this Statement of Undisputed Material Facts in support of their motion for summary judgment.

1. The City of New York Parks and Recreation contracted with O'Brien Kreitzberg, predecessor company to URS, to provide consultant Management Services for various projects, including the project known as the Reconstruction of the Bulkheads and Relieving Platforms From Jackson Street to East 14<sup>th</sup> Street, Between the FDR Drive and the East River, in East River Park, In the Borough of Manhattan, Known as Contract Number M144-101M ("Project"). (Exhibit 6 annexed to the Ciccio Declaration).

2. <sup>1</sup>The City of New York Parks and Recreation contracted with Pile Foundation Construction Company to be the General Contractor at the Project. (Exhibits 8 and 15 on page 2 to the Ciccio Declaration).

3. On May 20, 2009, Pile owned the “Uncle Leo” barge. (Exhibit 1 on first page annexed to the Ciccio Declaration).

4. On May 20, 2009, plaintiff was employed by Pile. (Exhibit 9 on page 2 annexed to the Ciccio Declaration).

5. On May 20, 2009, the “Uncle Leo” barge was moored adjacent to the EDC Lot in the East River. (Exhibit 14 on page 3 annexed to the Ciccio Declaration).

6. On May 20, 2009, the physical boundaries of the Economic Development Corporation Lot were outside the work site as defined by the relevant contracts. (Exhibit 8 on page 2 to the Ciccio Declaration).

7. The boundaries of the Project were from Jackson Street to East 14<sup>th</sup> Street, between the FDR Drive and the East River, in East River Park, In the Borough of Manhattan, New York. (Exhibit 8 on page 2 to the Ciccio Declaration).

8. Pursuant to the terms of its contract with the City, URS performed no construction work at the Project. (Exhibit 6 on page 2 to the Ciccio Declaration ).

9. Pursuant to the terms of its contract, Pile performed the construction work at the Project. (Exhibit 8 on page 2 to the Ciccio Declaration )

10. On May 20, 2009 and prior to plaintiff’s accident, Pile directed the crane operator place the crane block between crane mats on the deck of the “Uncle Leo” barge. (Exhibit 9 on page 2 to the Ciccio Declaration).

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<sup>1</sup> Exhibit 11, Barba Trans. at 8:22-25 & 9:2-7 to the Ciccio Declaration.

11. On May 20, 2009, at the time plaintiff was injured, he was standing on the deck of the "Uncle Leo" barge. (Exhibit 9 on page 2 to the Ciccio Declaration).

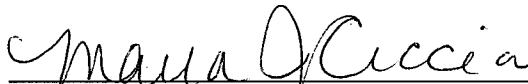
12. On May 20, 2009, at the time of plaintiff's accident, no one from URS was present on the "Uncle Leo" barge. (Exhibit 9 on page 2 to the Ciccio Declaration).

13. On May 20, 2009, URS did not direct, supervise or control plaintiff's work. (Exhibits 9 and 11 on page 2 to the Ciccio Declaration).

14. URS contracted with AECOM to provide certain marine related services at the East River Project. (Exhibit 18 to the Ciccio Declaration).

15. The URS/AECOM contract contained Article 6 that requires AECOM to indemnify, hold harmless URS from and against any and all claims that arise out of or result from, in whole or in part, the negligent or willful acts or omissions of AECOM. (Exhibit 18 to the Ciccio Declaration).

Dated: New York, New York  
October 11, 2011

  
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